

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

XR COMMUNICATIONS, LLC, dba
VIVATO TECHNOLOGIES,

Plaintiff,

v.

AT&T SERVICES INC.; AT&T MOBILITY
LLC; and AT&T CORP.,

Defendants,

NOKIA OF AMERICA CORPORATION and
ERICSSON INC.,

Intervenors.

Case No. 2:23-cv-00202-JRG-RSP
(Lead Case)

JURY TRIAL DEMANDED

JOINT REPORT REGARDING PENDING DISCOVERY MOTIONS

Pursuant to Paragraph 9(d) of this Court’s Discovery Order, Plaintiff XR Communications, LLC, dba Vivato Technologies (“Vivato”), Defendants AT&T Services, Inc., AT&T Mobility LLC, AT&T Corp. (“AT&T”), Verizon Communications, Inc., Cellco Partnership d/b/a Verizon Wireless (“Verizon”), and T-Mobile USA, Inc., (“T-Mobile”) (together, “Defendants”), and Intervenors Ericsson Inc. (“Ericsson”) and Nokia of America Corporation (“Nokia”) (together, “Intervenors”) (collectively, the “Parties”) respectfully submit the following Joint Report regarding pending discovery motions.

PLAINTIFF’S MOTION

With respect to Plaintiff’s Renewed Motion to Compel (Dkt. No. 122), lead and local counsel for the Parties met and conferred on January 28, and report the following:

- **Reciprocity Beamforming Issues:**
 - **Defendant’s Representations:**

- **Base Station Information and Location:** For this topic, Plaintiff seeks certain information related to the Ericsson and Nokia 5G base stations supplied to AT&T and/or Verizon. AT&T and Verizon have confirmed that they have produced the requested base station and location information for the Ericsson and Nokia 5G base stations in their networks.
- **Geographic Units for Deployment:** For this topic, Plaintiff seeks certain information related to the 5G base stations used in the Verizon network. Verizon has confirmed it is not withholding responsive information and has produced the requested information to the extent that it is reasonably available to it.
- **Deployment Costs and Performance Analyzes:** For this topic, Plaintiff seeks certain information related to the AT&T and Verizon cellular networks. AT&T and Verizon have confirmed that they have produced deployment cost and performance analysis information related to the accused Ericsson and Nokia 5G base stations in their networks.
- **User Equipment and Network Traffic Metrics:** For this topic, Plaintiff seeks certain information related to the user equipment and traffic metrics for AT&T's and Verizon's 5G cellular networks. AT&T and Verizon confirmed that they have produced user equipment and network traffic metrics for their 5G cellular networks, to the extent that it is reasonably available to them.

- **First Use:** For this topic, Plaintiff seeks certain information related to the first use of certain features by 5G base stations used in the AT&T, Verizon and T-Mobile cellular networks. AT&T has confirmed that it has produced data indicating when the accused 5G features were available for activation on the accused Ericsson and Nokia 5G base stations and whether the features are currently activated; and that it has conducted an exhaustive search for the dates of first use of the features on a base station-by-base station basis and has not identified any more detailed data than the data already produced.

Verizon has confirmed that it has produced data indicating when the accused feature were available for activation on the accused Ericsson 5G base stations; and that it has conducted an exhaustive search for the dates of first use of the features on a base station-by-base station basis and has not identified any more detailed data than the data already produced. Verizon notes that date of first use would be after the dates on which the Ericsson source code first included each of the accused 5G features.

T-Mobile has confirmed that it has conducted an exhaustive search for the first use data and data has been identified and produced for certain of the identified features. For the remaining features T-Mobile has not identified any data reflective of the specific date of first use but notes that data has been produced

indicating the dates on which the Ericsson and Nokia source code first included each of the accused 5G features.

- **Plaintiff's Position:** Given Defendants' and Intervenor's belated productions, Plaintiff has had insufficient time to verify their statements. Regarding dates of first use, while Verizon and AT&T assert that the date of first use occurred "after" it was added to the code, they fail to specify by how much. They should not be allowed to argue for a later date that they refuse to disclose now. Defendants and Intervenors have not formally stipulated to the relief sought by Plaintiff in its Motion, despite appearing to agree to the relief in principle. Nor have they stipulated that, if their representations are found to be inaccurate, Plaintiff is entitled to relief under Fed. R. Civ. P. 37(b). To safeguard its rights, Plaintiff maintains that the relief described in its Motion remains necessary.
- **Defendants/Intervenors' Position:** Defendants/ and Intervenor's collective document productions and interrogatory responses provide the information requested by Plaintiff, except where it is unavailable in the form requested by the Plaintiff, such as explained above (e.g., first use data). Because Defendants and Intervenors have conducted extensive searches and produced collectively the responsive information that is available to them, Plaintiff's motion is moot with respect to these topics.
- **Coordinated Multipoint Issues:** The Parties remain at an impasse for the reasons discussed in their respective briefs.

DEFENDANTS'/INTERVENORS' MOTION

With respect to Defendants' / Intervenors' Motion to Compel Plaintiff to Supplement its Responses to Individual Interrogatory Nos. 1–6 (Dkt. No. 126), lead and local counsel for the Parties met and conferred on January 28, and report that the Parties remain at an impasse.

Dated: January 31, 2025

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that counsel for the Parties met and conferred to discuss this Joint Notice pursuant to Paragraph 9(d) of this Court's Discovery Order. The Parties jointly submit this notice.

/s/ *Reza Mirzaie*

Reza Mirzaie

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on January 31, 2025, all counsel of record who are deemed to have consented to electronic service are being served with a true and correct copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ *Reza Mirzaie*

Reza Mirzaie